

### **REMARKS**

In the Office Action mailed April 29, 2008, claims 3, 4, 7, 8, 11, 12, 15 and 16 were said to be allowed in the "Office Action Summary" page, but those claims were then rejected in the "Detailed Action" section. Claims 1, 2, 5, 6, 9, 10, 13 and 14 were rejected.

#### **Amendments**

Claims 1, 2, 5, 6, 9, 10, 13 and 14 have been cancelled without prejudice. New claims 17-22 have been added. These new claims are supported by the specification as filed on page 3, paragraphs 27-30, and original claims 1, 2, 5, 6, 9, 10, 13 and 14, for example.

No new matter is added by any amendment, and all amendments are supported by the specification and claims as filed.

#### **102(b) rejection**

In the Office Action mailed April 29, 2008, claims 1, 2, 5, 6, 9, 10, 13 and 14 were rejected under 35 USC 102(b). Although applicant does not concede to the rejections, the claims have been canceled. Therefore, the rejection is overcome. Reconsideration and withdrawal of the rejection is respectfully requested.

#### **103(a) rejection**

In the Office Action mailed April 29, 2008, claims 3-4, 7-8, 11-12 and 15-16 were rejected under 35 USC 103(a) over Shin (KR 214810) in view of Jeong-Yong (Korean J. Food Science Technology, 2000).

No *prima facie* case of obviousness is made in this case. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to

combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991), cited from MPEP 706.02(j).

In response, it is noted that there is no teaching or suggestion in the cited references for a composition comprising both *Lindera obtusiloba* and *Havenia dulcis* Thunb extracts as active ingredients. Importantly, contrary to the statement in the Office Action, the present invention is not the combination of two known ingredients "each of which is taught by the prior art to be useful for the same purpose in order to form a third composition which is useful for the same purpose." The references cited separately disclose an extract of *Lindera obtusiloba* stem which has antibacterial effects on *Pseudomonas aeruginosa* and *Staphylococcus aeruginosa* strains (Shin abstract) and an extract of *Hovenia dulcis* Thunb which showed antimicrobial activity (Jeong-Yong Cho abstract). The present claims disclose a composition comprising an herbal mixture extract of *Lindera obtusiloba* and *Havenia dulcis* Thunb which provides the effects of anti-fibrosis and improving kidney function which is not disclosed in the cited references. This is clearly not the same purpose disclosed in the references cited. Therefore, it would not be obvious for one of ordinary skill in the art to combine two ingredients to form a third composition which is useful for a different purpose.

Further, the herbal mixture of the present application has effects that are greater than the additive effect of the ingredients alone. As shown in the specification, especially Table 2, Table 3 and Table 3, the effects of the herbal mixture are well disclosed. As shown in Table 2, the levels of GOT, GPT, ALP, BUN and total bilirubin were lower in experimental groups treated with the herbal mixture, as compared to individual extracts. Table 3 shows that the content of hydroxyproline in the experimental group treated with herbal mixtures was lower in liver tissues and higher in kidney tissues than that of

Lindera obtustiloba extract of Havenia dulcis Thunb extracts. Also, Table 4 shows that groups treated with the herbal mixture have the lowest amount of malondialdehyde in liver tissues.

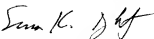
Therefore, in view of the above, the invention as claimed would not be obvious over the cited references.

### **CONCLUSION**

In view of the above arguments, it is believed the rejections are overcome.  
Reconsideration and withdrawal of the rejections is respectfully requested.

Applicant paid the fees due for nine independent claims upon filing. It is believed that the present submission requires the payment of fees for one new independent claim. Please deduct the appropriate amount due (believed to be \$105.00 for small entity), including any extensions of time required, from Deposit Account No. 07-1969.

Respectfully submitted,

  
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